IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No : 4749 of 2000

Dated:26.06.2007

Between:
A.Venkata Narayana Reddy

..... PETITIONER

AND

1.The District Collector, Anantapur
and 2 others …RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.4749 of 2000

ORDER:

This writ petition is filed seeking quashing of the endorsement dated 23.01.2000 made by the 2nd respondent-Revenue Divisional Officer in

L.Dis.No.2469/99/B and for consequential direction to the 2nd respondent to refer the matter to the competent Civil Court under Section 18 (2) of the Land Acquisition Act, 1894 (for short 'the Act').

Brief facts of the case are that the land of the petitioner to an extent of Ac.4.00 out of Ac.7.72 cents in Sy.No.108/2 situated in Brahmmadevamarri, Mudigubba Mandal, Anantapur District, was acquired by the Government for providing house sites to weaker sections. Since the compensation fixed by the Government was very low, the petitioner submitted an application on 17.11.1999 to the 2nd respondent seeking to refer the matter under Section 18 (1) of the Act to the Civil Court for determination of compensation. As there was no response, the petitioner again submitted an application on 22.01.2000 with a petition to condone the delay of 227 days in filing the application to refer the matter to the Civil Court. However, the 2nd respondent made the impugned endorsement stating that the reference under Section 18 of the Act could not be made to Court, as the application was time barred.

A counter-affidavit has been filed by the 2nd respondent-Revenue Divisional Officer stating that the notice under Section 12 (2) of the Land Acquisition Act was received by the petitioner on 09.04.1999 and the compensation amount was paid on 03.05.1999, but he filed an application for making reference to Civil Court under Section 18 of the Land Acquisition Act on 17.11.1999 and as it is barred by time prescribed under Section 18 (2) of the Act, the 2nd respondent refused to refer the matter to Civil Court.

Learned Counsel for the petitioner, Sri C.Ram Prasad, submits that the 2nd respondent-Land Acquisition Officer ought not to have dismissed the application filed under Section 5 of the Limitation Act seeking to condone the delay of 227 days in filing the application to refer the matter to Civil Court and in support of his contention he relied on a Division Bench decision of Gujarat High Court reported in MOHAN VASTA V. STATE OF GUJARAT[1]

Per contra, the learned Government Pleader for Land Acquisition Officer contended that the provisions of Limitation Act do not apply to the proceedings under Section 18 of the Land Acquisition Act and the 2nd respondent-Land Acquisition Officer has rightly rejected the said application and in support of his contention he has drawn my attention to a Division Bench decision of this Court in GAISETTI TIRUPATHI V. L.A.O-cum-R.D.O,

PADDAPALLI[2] and also a decision of the Supreme Court in OFFICER ON SPECIAL DUTY (LAND ACQUISITION) V. SHAH MANILAL CHANDULAL[3].

In GAISETTI TIRUPATHI (2nd supra), a Division Bench of this Court held as under:

> "The Limitation Act has no application to the proceedings before the Collector and, therefore, Section 5 of the Limitation Act cannot be applied for condonation of delay in making an application under sub Section (2) of Section 18 of the Act. Though sub Section (3) of Section 18 of the Land Acquisition, by virtue of local amendments, treated the Collector as a Court for the limited purpose of exercising revisional jurisdiction under Section 115 of the Code of Civil Procedure to correct the errors of orders passed by the Collector under Section 18 of the Act, he cannot be considered to be a Court for the purpose of Section 5 of the Limitation Act. Section 5 of the Limitation Act stands attracted only when the Land Acquisition Officer acts as a Court".

In view of the law laid down by the Division Bench of this Court as well as the Apex Court, which held that the Limitation Act has no application to the proceedings under Section 18 of the Land Acquisition Act, the judgment of the Gujarat High Court cannot be accepted. In the light of this position of law, it cannot be said that the impugned order of the 2nd respondent refusing to entertain the application filed under Section 5 of the Limitation Act seeking to condone the delay in filing the application for reference under Section 18 of the Land Acquisition Act, is bad.

The writ petition is accordingly dismissed. No costs.

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(GOPALA KRISHNA TAMADA, J)

26-06-2007
Gsn.

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[1] AIR 1985 GUJARAT 115

[2] 2002 (5) ALD 564 (DB)

[3] (1999) 9 SUPREME COURT CASES 414